

Prevailing Wages in Construction Contracts

Davis–Bacon Act and Related Acts (40 USC §276a; 29 CFR Parts 1, 3, 5, 6 and 7)

Who is Covered

The Davis–Bacon and Related Acts apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.

Basic Provisions/Requirements

The Act requires that all contractors and subcontractors performing on federal contracts (and contractors or subcontractors performing on federally assisted contracts under the related Acts) in excess of \$2,000 pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits, as determined by the Secretary of Labor, for corresponding classes of laborers and mechanics employed on similar projects in the area.

Apprentices and trainees may be employed at less than predetermined rates. Apprentices must be employed pursuant to an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department. Trainees must be employed pursuant to a training program certified by the Department.

Contractors and subcontractors on prime contracts in excess of \$100,000 are also required, pursuant to the Contract Work Hours and Safety Standards Act, to pay employees one and one-half times their basic rates of pay for all hours over 40 worked on covered contract work in a workweek.

Covered contractors and subcontractors are also required to pay employees weekly and to submit weekly certified payroll records to the contracting agency.

Employee Rights

The Davis–Bacon and Related Acts provide laborers and mechanics on covered federally financed or assisted construction contracts the right to receive at least the locally prevailing wage rate and fringe benefits, as determined by the Department of Labor, for the type of work performed. The Wage and Hour Division (www.wagehour.dol.gov) of the Department's Employment Standards Administration and respective federal contracting agencies accept complaints of alleged Davis–Bacon violations.

The Employment Law Guide is offered as a public resource. It does not create new legal obligations and it is not a substitute for the U.S. Code, Federal Register, and Code of Federal Regulations as the official sources of applicable law. Every effort has been made to ensure that the information provided is complete and accurate as of the time of publication, and this will continue. Later versions of this Guide will be offered at www.dol.gov/compliance or by calling our Toll-Free Help Line at 1–866–4–USA–DOL (1–866–487–2365).



Compliance Assistance Available

The Wage and Hour Division of the Employment Standards Administration administers and enforces the Davis–Bacon Act. More detailed information, including copies of explanatory brochures and regulatory and interpretative materials, may be obtained by contacting the Wage and Hour Division’s local offices (www.dol.gov/esa/contacts/whd/america2.htm). Compliance assistance information may also be obtained on the Wage and Hour Division’s Web site (www.wagehour.dol.gov) or by contacting the Wage and Hour Division help line at 1–866–4USWAGE.

Penalties/Sanctions

Contractors or subcontractors found to have disregarded their obligations to employees, or to have committed aggravated or willful violations while performing work on Davis–Bacon covered projects, may be subject to contract termination and debarment from future contracts for up to three years. In addition, contract payments may be withheld in sufficient amounts to satisfy liabilities for unpaid wages and liquidated damages that result from overtime violations of the Contract Work Hours and Safety Standards Act.

Contractors and subcontractors may challenge determinations of violations and debarment before an Administrative Law Judge (ALJ). Contractors and subcontractors may appeal decisions by ALJs with the Department’s Administrative Review Board. Final Board determinations on violations may be appealed to and are enforceable through the federal courts.

Falsification of certified payroll records or the required kickback of wages may subject a contractor or subcontractor to civil or criminal prosecution, the penalty for which may be fines and/or imprisonment.

Relation to State, Local, and Other Federal Laws

Since 1931, Congress has extended the Davis–Bacon prevailing wage requirements to some 60 related Acts, which provide federal assistance for construction through loans, grants, loan guarantees, and insurance. These Acts include by reference the requirements for payment of the prevailing wages in accordance with the Davis–Bacon Act. Examples of the related Acts are the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.